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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/682,630	10/09/2003	Nicola John Policicchio	8346C	9471

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EXAMINER

SNIDER, THERESA T

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 03/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/682,630

Applicant(s)

POLICICCHIO, NICOLA JOHN

Examiner

Theresa T. Snider

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 17-23 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 is/are allowed.
- 6) ☒ Claim(s) 1,6-8 and 12-15 is/are rejected.
- 7) ☒ Claim(s) 2-5,9-11 and 24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-16 and 24, drawn to a cleaning implement, classified in class 15, subclass 228.
  - II. Claim 17, drawn to a method of making a mop, classified in class 300, subclass 21.
  - III. Claim 18, drawn to a method of molding a mop head, classified in class 264.
  - IV. Claims 19-23, drawn to a plate with fasteners, classified in class 24.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the elevation element could be molded onto the mop head.
3. Inventions I and III are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the elevation element could be attached to the mop head.
4. Inventions I and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different

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functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different functions. One is an implement with a handle, mop head, cleaning pad and elevational element and the other is a plate with fasteners.

5. Inventions II and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation.

6. Inventions II and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different functions.

7. Inventions III and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different functions.

8. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

9. During a telephone conversation with Thibault Fayette on 2/26/2004 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-16 and 24. Affirmation of this election must be made by applicant in replying to this Office action. Claims

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17-23 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### *Drawings*

10. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 37 and 29(figure 3), 50 and 68(fig. 4), 203 and 205(fig. 10), 410,415,421 and 430(fig. 11), 401,403,404,405,407,409, 415 and 430(fig. 12). A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

11. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because:  
reference character "36" has been used to designate both pivot direction(page 11, line 31) and handle section(page 11, line 33);

reference character "38" has been used to designate both pivot direction(page 11, line 31) and handle section(page 11, line 33);

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

12. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 252 and 352(page 13, line 18). A proposed drawing correction or corrected drawings are required in reply to the

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Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

13. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the surface of the elevational element having discontinuities(claim 8) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Specification*

14. The disclosure is objected to because of the following informalities:

Exemplary of such:

Abstract, lines 3 and 7, 'improved' should be deleted.

Page 1, lines 8-18, the status of the copending applications should be updated.

Page 12, line 7, it is believed the serial number is incorrect. The status of the application should be updated.

Page 12, line 24, a word seems to missing in 'One skill in the art'.

Appropriate correction is required.

Page 28, lines 12-15 and 20-21, the status of the copending applications should be updated.

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15. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

*Claim Rejections - 35 USC § 102*

16. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

17. Claims 1, 7 and 12 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Belsky et al..

Belsky et al. discloses a handle (fig. 2, #18).

Belsky et al. discloses a mop head pivotably attached to the handle (fig. 1, #2).

Belsky et al. disclose the head having a pad forming the bottom surface (col. 1, lines 41-48).

Belsky et al. discloses one elevational element on the bottom surface, the element being removable and increasing the absorptive efficiency of the pad (fig. 1, #22, col. 1, line 63-65, col. 3, lines 29-33).

Belsky et al. discloses an absorbent pad (fig. 2, #24).

With respect to claim 7, Belsky et al. discloses the elevational element is generally compressible (fig. 4, #24).

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18. Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hartley.

Hartley discloses a handle (fig. 1, #5).

Hartley discloses a mop head pivotably attached to the handle (fig. 1, #27).

Hartley disclose the head having a pad forming the bottom surface (fig. 2, #27).

Hartley discloses one elevational element on the bottom surface, the element being removable (fig. 2, #32, 45).

Hartley discloses an absorbent pad (fig. 2, #31,34).

With respect to claim 6, Hartley discloses the element being generally noncompressible (col. 2, lines 35-37).

### *Claim Rejections - 35 USC § 103*

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.



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21. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Belsky et al. as applied to claim 1 above, and further in view of Nash('264).

Belsky et al. discloses a similar implement however fails to disclose the element having discontinuities.

Nash('264) discloses a cleaning implement having an elevational element with discontinuities on its surface (fig. 3, #14, col. 2, lines 56-61). It would have been obvious to one of ordinary skill in the art to provide the discontinuities of Nash('264) in Belsky et al. to reduce the frictional resistance to movement of the implement along a surface.

22. Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Belsky et al..

Belsky et al. discloses a similar implement however fails to disclose the increase in absorptive efficiency.

It would have been obvious to one of ordinary skill in the art to determine the most appropriate element material in Belsky et al. to allow for the desired amount of absorptive efficiency for the most effective cleaning in a desired situation.

*Allowable Subject Matter*

23. Claim 16 is allowed.
24. Claims 2-5, 9-11 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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25. The following is a statement of reasons for the indication of allowable subject matter: the prior art discloses a cleaning implement having a handle, a mop head pivotably attached to the handle, at least one elevational element removably attached to the bottom surface of the head and an absorbent cleaning pad HOWEVER fails to disclose or fairly suggest the elevational element substantially centered on the bottom surface OR a second elevational element attached to the first elevational element OR the cleaning pad having at least one functional cuff attached thereto.

### *Conclusion*

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nash('855) discloses a cleaning implement having an elevational element with discontinuities. Buratti and Smith et al. disclose cleaning implements having elevational elements that allow the head to pivot relative to a surface. Thompson discloses an implement with an elevational element.

27. This is a continuation of applicant's earlier Application No. 09/723,026. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

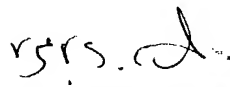
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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa T. Snider whose telephone number is (571) 272-1277. The examiner can normally be reached on Monday-Wednesday-Friday (6:30AM-3:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
THERESA T. SNIDER  
PRIMARY EXAMINER

Theresa T. Snider  
Primary Examiner  
Art Unit 1744

02/26/2004